

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES, *et al.*,

*Plaintiffs,*

vs.

Case No: 1:23cv108 LMB/JFA

GOOGLE LLC,

*Defendant.*

**JULY 26, 2024 DECLARATION OF RICHARD EATON**

I, Richard Eaton, hereby deposes and says as follows:

1. My name is Richard Eaton, and I am the Chief Financial Officer of Yieldmo, Inc. (“Yieldmo”), a non-party in the above-referenced matter.
2. Yieldmo is a privately held company that employs approximately 135 people, principally in the U.S.
3. Between May 23, 2024 and June 6, 2024, I received five (5) emails from the U.S. Department of Justice (“DOJ”) informing me about Confidential Yieldmo information that was being maintained under seal in the above-captioned case, but also informing me that unless Yieldmo took steps to request the Court to continue to maintain that Confidential Information under seal, there was a possibility that the Confidential Yieldmo Information would not stay under seal and instead would be made public. Copies of these emails were attached as Exhibit 2 to Non-Party Yieldmo’s Response In Support Of Plaintiffs’ And Defendant’s Motions To Seal. (Dkt. 840.)
4. I have now been provided with redacted versions of certain proposed trial exhibits that Plaintiffs and Google intend to use at the trial of the above-captioned matter.



5. I have reviewed these proposed trial exhibits, and they include highly confidential and competitively sensitive Yieldmo information, including net revenue, “take rates,” market share and other highly confidential, proprietary and competitively sensitive financial and other information.
6. In fact, if information regarding take rates and spend is disclosed, then competitors can derive revenue numbers (also referred to as “ad exchange fees”). Similarly, if spend and revenue numbers are disclosed, then take rates can be derived – again, very highly confidential and proprietary information the disclosure of which would cause irreparable injury to Yieldmo, as well as other competitors in the industry.
7. The information at issue constitutes confidential financial and business information that, if disclosed, would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm.
8. The information at issue also constitutes core financial information for Yieldmo’s business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo’s rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share.
9. Portions of the documents described above list rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.



10. Further, the public disclosure of the information contained in these proposed exhibits would also be of very substantial concern to other competitors in this industry. In addition, portions of the documents would enable competitors, Wall Street analysts and others to derive rates charged by Yieldmo and analyze them in comparison to rates charged by other competitors, information that would harm Yieldmo if disclosed to such competitors.
11. These concerns also apply with equal force to trends in the industry regarding market share, take rates, gross ad spend and the like, even with respect to public companies where such information has not previously been exposed to the public.
12. All of these documents were designated by Yieldmo as Confidential or Highly Confidential under the operative Modified Protective Order (Dkt. 203).

**Plaintiff's Proposed Trial Exhibits Regarding Yieldmo**

13. PTX1199 Figure 4, Initial Expert Report of Timothy Simcoe Effective Take Rate for Worldwide Open Web Display + Video Outstream Impressions. This document includes information regarding Yieldmo's "take rates," which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or



otherwise take market share. Portions of the documents described above list rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.

14. PTX1200 Figure 5, Initial Expert Report of Timothy Simcoe Worldwide Open Web Display Impressions. This document includes information regarding the number of Yieldmo's worldwide impressions, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo's market penetration and success of its exchange, and the trend of who is gaining or losing market share. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share.

15. PTX1202 Figure 7, Initial Expert Report of Timothy Simcoe Average Spend Per 1,000 Worldwide Impressions, 2018-2021. This document includes information regarding Yieldmo's average dollar spend for worldwide impressions, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare



to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above list rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.

16. PTX1205 Figure 15, Initial Expert Report of Timothy Simcoe But-for Comparable Take Rates, Worldwide Impressions. This document includes information regarding Yieldmo's "take rates," which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above list rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.
17. PTX1213 Figure 25, Initial Expert Report of Timothy Simcoe But-for Comparable Take Rates, US Impressions. This document includes information regarding Yieldmo's "take rates," which constitutes highly confidential and competitively



sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above list rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.

18. PTX1233 Figure 51, Initial Expert Report of Robin S. Lee AdX and third-party ad exchanges' shares of ad exchange fees from worldwide indirect open-web display transactions (2022). This document includes information regarding Yieldmo's share of ad exchange fees (meaning market share of revenue), which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and



would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share.

19. PTX1237 Figure 47, Initial Expert Report of Robin S. Lee AdX maintains a substantial share of worldwide indirect open-web display impressions transacted through ad exchanges (2018–2022). This document includes information regarding Yieldmo’s market share of impressions, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo’s business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo’s rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share.
20. PTX1238 Figure 48, Initial Expert Report of Robin S. Lee AdX and third-party ad exchanges’ shares of worldwide indirect open web display impressions among ad exchange (2022). This document includes information regarding Yieldmo’s market share of impressions, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo’s business. It reveals how Yieldmo charges for



its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share.

21. PTX1239 Figure 49, Initial Expert Report of Robin S. Lee AdX earns consistently high net revenues from the sale of worldwide indirect open-web display impressions(2018–2022). This document includes information regarding Yieldmo's revenues, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents enable competitors, Wall Street analysts and others to derive rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.

22. PTX1240 Figure 50, Initial Expert Report of Robin S. Lee AdX maintains a significant share of ad exchange fees from worldwide indirect open-web display transactions (2018–2022). This document includes information regarding



Yieldmo's revenues, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents enable competitors, Wall Street analysts and others to derive rates charged by Yieldmo and analyze them in comparison to rates charged by our competitors, information that would harm Yieldmo if disclosed to our competitors.

23. PTX1260 Figure 90, Initial Expert Report of Robin S. Lee AdX maintains a substantial share of US indirect open-web display impressions transacted through ad exchanges (2018–2022). This document includes information regarding Yieldmo's market share of impressions, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in



the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above allow trends to be derived, and gains and losses of competitors derived as well, information that would harm Yieldmo if disclosed to our competitors.

24. PTX1261 Figure 91, Initial Expert Report of Robin S. Lee AdX and third-party exchanges' shares of US indirect open-web display impressions among ad exchanges (2022). This document includes information regarding Yieldmo's market share of impressions, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above allow trends to be derived, and gains and losses of competitors derived as well, information that would harm Yieldmo if disclosed to our competitors.

25. PTX1262 Figure 92, Initial Expert Report of Robin S. Lee AdX earns consistently high net revenues from the sale of US indirect open-web display impressions (2018–2022). This document includes information regarding Yieldmo's net



revenues, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above allow trends to be derived, and gains and losses of competitors derived as well, information that would harm Yieldmo if disclosed to our competitors.

26. PTX1263 Figure 93, Initial Expert Report of Robin S. Lee AdX maintains a substantial share of ad exchange fees from US indirect open-web display impressions(2018–2022). This document includes information regarding Yieldmo's market share of revenue, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo's business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo's rates compare to those charged by others in the industry. This information is not available to the public and would be of



significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above allow trends to be derived, and gains and losses of competitors derived as well, information that would harm Yieldmo if disclosed to our competitors.

27. PTX1265 Figure 95, Initial Expert Report of Robin S. Lee AdX maintains a substantial share of worldwide indirect open-web display spend transacted through ad exchanges (2018–2022). This document includes information regarding Yieldmo’s market share of ad spend, from which take rates can be derived, which constitutes highly confidential and competitively sensitive Yieldmo information that is not public. Disclosure of this information would likely cause irreparable harm to Yieldmo, including but not limited loss of competitive advantage and financial harm. The information also constitutes core financial information for Yieldmo’s business. It reveals how Yieldmo charges for its services and the market penetration and success of its exchange, and shows how Yieldmo’s rates compare to those charged by others in the industry. This information is not available to the public and would be of significant benefit to competitors looking for ways to undercut Yieldmo, or otherwise take market share. Portions of the documents described above allow trends to be derived, and gains and losses of competitors derived as well, information that would harm Yieldmo if disclosed to our competitors.

28. PTX1266 Figure 96, Initial Expert Report of Robin S. Lee AdX maintains a significant share of US indirect open-web display spend. This document includes information regarding Yieldmo’s ad spend, from which take rates can be derived,